

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

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CHARLENE JACK, PATRICE JACK,
QUENTIN MILES, JASON MOQUETE,
KENNETH JACK, JAVON HAYES,
ADRIEN GARCIA, and ZAYKEM
ALLMOUNE,;

COMPLAINT

Jury Trial Demanded

Plaintiffs,

-against-

CV 15 6815

CITY OF NEW YORK; POLICE OFFICER
DEVEN OKVIST Shield No. 5730, Police
Officer STEPHEN T. MINUCCI, Shield No.
7979, Police Officer DAVID AFANADOR,
Shield No. 31730, JOHN and JANE DOE
1 through 10, individually and in their
official capacities (the names John and
Jane Doe being fictitious, as the true
names are presently unknown),

DEARIE, J.

POLLAK, M.J.

Defendants.

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NATURE OF THE ACTION

1. This is an action to recover money damages arising out of the violation of Plaintiffs' rights under the Constitution.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the Constitution of the United States.

3. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331, 1343 and 1367(a).

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c).

JURY DEMAND

5. Plaintiffs demand a trial by jury in this action.

PARTIES

6. Plaintiffs CHARLENE JACK ("CHARLENE"), PATRICE JACK ("PATRICE"), JASON MOQUETE ("MOQUETE"), QUENTIN MILES ("MILES"), KENNETH JACK ("KENNETH"), JAVON HAYES ("HAYES"), ADRIEN GARCIA ("GARCIA"), and ZAYKEM ALLMOUNE ("ZAYKEM") are residents of Kings County in the City and State of New York.

7. Defendant Police Officer DEVEN OKVIST, (Shield No. 5730); ("OKVIST"), at all times relevant herein, was an officer, employee and agent of the NYPD. Defendant OKVIST is sued in his individual and official capacities.

8. Defendant Police Officer OKVIST at all relevant times herein, either directly participated or failed to intervene in the violation of plaintiff's rights.

9. Defendant Police Officer STEPHEN T. MINUCCI, Shield No. 7979, ("MINUCCI"), at all times relevant herein, was an officer, employee and agent of the NYPD. Defendant MINUCCI is sued in his individual and official capacities.

10. Defendant Police Officer MINUCCI at all relevant times herein, either directly participated or failed to intervene in the violation of plaintiff's rights.

11. Defendant Police Officer DAVID AFANADOR, Shield No. 31730, ("AFANADOR"), at all times relevant herein, was an officer, employee and agent of the NYPD. Defendant AFANADOR is sued in his individual and official capacities.

12. Defendant Police Officer AFANADOR at all relevant times herein, either directly participated or failed to intervene in the violation of plaintiff's rights.

13. Defendant City of New York is a municipal corporation organized under the laws of the State of New York. It operates the NYPD, a department or agency of defendant City of New York responsible for the appointment, training, supervision, promotion and discipline of police officers and supervisory police officers, including the individually named defendants herein.

14. At all times relevant defendants John and Jane Doe 1 through 10 were police officers, detectives or supervisors employed by the NYPD. Plaintiffs do not know the real names and shield numbers of defendants John and Jane Doe 1 through 10.

15. At all times relevant herein, defendants John and Jane Doe 1 through 10 were acting as agents, servants and employees of defendant City of New York and the NYPD. Defendants John and Jane Doe 1 through 10 are sued in their individual and official capacities.

16. At all times relevant herein, all individual defendants were acting under color of state law.

STATEMENT OF FACTS

17. On May 30, 2014 at approximately 11:00 p.m. CHARLENE Jack was home at 805 Prospect Place in Brooklyn, New York when she heard a loud scream emanating from the floor below. She recognized her sister PATRICE's voice.

18. CHARLENE ran one floor below and saw her sister PATRICE being shoved by three large men. CHARLENE later learned that these men were police officers. The plain-clothes officers did not identify themselves.

19. When CHARLENE asked what was happening, one of the officers became irate and told her to "shut the fuck up." The officers continued to shove and push PATRICE JACK. CHARLENE again asked what was happening.

20. The officer who appeared irate said, "I don't give a fuck, cuff her, I am sick of her mouth." "Shut the fuck up you black bitch,"

he continued.

21. Another officer named "Lameer", looked at the officer who had ordered CHARLENE's arrest and said, "but she has no clothes on."

22. The irate officer again ordered CHARLENE's arrest, "take her just as she is," he said. At this point, both CHARLENE and PATRICE JACK were in handcuffs.

23. At that time QUENTIN MILES came upstairs and asked the officers to stop abusing his relatives.

24. The officer who ordered CHARLENE's arrest, told QUENTIN to "shut the fuck up" as two other officers grabbed QUENTIN, slammed him to the ground and placed him in handcuffs.

25. At that time, CHARLENE said "please don't hurt Quentin." In response, the irate officer charged at CHARLENE and slammed her into an adjoining wall and said, "I'm sick and tired of you, you fat black bitch."

26. At this point, PATRICE and QUENTIN were taken away to a police vehicle.

27. Three other officers then began banging on a door. "Where are the guns," they said.

28. A heavy-set African American officer yelled, "open the fucking door ... you don't, we gonna shoot."

29. As a direct result of this threat, one of the occupants in

the apartment opened the door.

30. As soon as the door was opened, a number of officers forced their way inside the apartment and attacked all of the occupants (JASON MAQUETE, JAVON HAYES, ADRIEN GARCIA, and ZAYKEM ALLMOUNE) who were visiting KENNETH JACK. Plaintiffs were assaulted and thrown to the floor, placed in cuffs and had guns placed to their heads.

31. Additional officers came in and ransacked the apartment. Doors were broken, the living room was upturned, and all of plaintiffs' possessions were removed from drawers and thrown on the floor and into the hallway. The officers found no weapons and no contraband. The officers did not have a warrant.

32. MAQUETE, HAYES, GARCIA, ALLMOUNE, and KENNETH were dragged from the apartment and into the hallway. The officers then took JAVON and ADRIEN back into the apartment separately and interrogated them. All five young men were eventually taken to the precinct.

33. Once at the precinct, each was questioned extensively about guns and events in the neighborhood. The officers attempted to turn the young men into informants for the NYPD.

34. After a lengthy period of time in custody GARCIA, ALLMOUNE and KENNETH were released. MAQUETTE was charged with possession of a weapon and detained. CHARLENE, PATRICE

and MILES were charged with Obstruction of Governmental Administration among other charges and also detained.

35. At the precinct, the officers falsely informed employees of the Kings County District Attorney's Office that they had observed MAQUETTE, CHARLENE, PATRICE and MILES committing various crimes.

36. At no point did the officers observe plaintiffs committing any crimes or offenses.

37. Ultimately MAQUETTE, CHARLENE, PATRICE and MILES were taken from the police precinct to Brooklyn Central Booking.

38. They were later arraigned in the Kings County Criminal Court.

39. Ultimately, all charges against plaintiffs were dismissed.

40. Plaintiffs suffered damage as a result of defendants' actions. Plaintiffs were deprived of their liberty, suffered emotional distress, mental anguish, fear, pain, bodily injury, anxiety, embarrassment, humiliation, and damage to their reputation.

FIRST CLAIM
42 U.S.C. § 1983

41. Plaintiffs repeat and re-allege each and every allegation as if fully set forth herein.

42. Defendants, by their conduct toward plaintiffs alleged herein, violated plaintiffs' rights guaranteed by 42 U.S.C. § 1983, the

Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

43. As a direct and proximate result of this unlawful conduct, plaintiffs sustained the damages hereinbefore alleged.

SECOND CLAIM
Unlawful Entry and Search

44. Plaintiffs repeat and re-allege each and every allegation as if fully set forth herein.

45. Defendants violated the Fourth and Fourteenth Amendments because they unlawfully entered and search plaintiffs' home.

46. As a direct and proximate result of this unlawful conduct, plaintiffs sustained the damages hereinbefore alleged.

THIRD CLAIM
False Arrest

47. Plaintiffs repeat and reallege each and every allegation as if fully set forth herein.

48. Defendants violated the Fourth and Fourteenth Amendments because they arrested plaintiffs without probable cause.

49. As a direct and proximate result of this unlawful conduct, plaintiffs sustained the damages hereinbefore alleged.

FOURTH CLAIM
Unreasonable Force

50. Plaintiffs repeat and reallege each and every allegation as if fully set forth herein.

51. The defendants violated the Fourth and Fourteenth Amendments because they used unreasonable force on plaintiffs.

52. As a direct and proximate result of this unlawful conduct, plaintiffs sustained the damages hereinbefore alleged.

FIFTH CLAIM
Malicious Prosecution

53. Plaintiffs repeat and reallege each and every allegation as if fully set forth herein.

54. By their conduct, as described herein, and acting under color of state law, defendants are liable to plaintiffs under 42 U.S.C. § 1983 for the violation of their constitutional right to be free from malicious prosecution under the Fourth and Fourteenth Amendments to the United States Constitution.

55. Defendants' unlawful actions were done willfully, knowingly, with malice and with the specific intent to deprive plaintiffs of their constitutional rights. The prosecution by defendants of plaintiffs constituted malicious prosecution in that there was no basis for the Plaintiffs' arrests, yet defendants

continued with the prosecution, which was resolved in Plaintiffs' favor.

56. As a direct and proximate result of defendants' unlawful actions, plaintiffs have suffered, and will continue to suffer, damages, including physical, mental and emotional injury and pain, mental anguish, suffering, humiliation, embarrassment and loss of reputation.

57. As a direct and proximate result of defendants' unlawful actions, plaintiffs have suffered, and will continue to suffer, damages, including physical, mental and emotional injury and pain, mental anguish, suffering, humiliation, embarrassment and loss of reputation.

SIXTH CLAIM
Failure To Intervene

58. Plaintiffs repeat and reallege each and every allegation as if fully set forth herein.

59. Those defendants that were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

60. Accordingly, the defendants who failed to intervene violated the First, Fourth, Fifth And Fourteenth Amendments.

61. As a direct and proximate result of this unlawful conduct, plaintiffs sustained the damages hereinbefore alleged.

SEVENTH CLAIM
Monell Claim

62. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

63. This is not an isolated incident. The City of New York (the “City”), through policies, practices and customs, directly caused the constitutional violations suffered by plaintiff.

64. The City, through its police department, has had and still has hiring practices that it knows will lead to the hiring of police officers lacking the intellectual capacity and moral fortitude to discharge their duties in accordance with the constitution and is indifferent to the consequences.

65. The City, through its police department, has a *de facto* quota policy that encourages unlawful stops, unlawful searches, false arrests, the fabrication of evidence and perjury.

66. The City, at all relevant times, was aware that these individual defendants routinely commit constitutional violations such as those at issue here and has failed to change its policies, practices and customs to stop this behavior.

67. The City, at all relevant times, was aware that these individual defendants are unfit officers who have previously committed the acts alleged herein and/or have a propensity for unconstitutional conduct.

68. These policies, practices, and customs were the moving force behind plaintiff's injuries.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully requests judgment against defendants as follows:

(a) Compensatory damages against all defendants, jointly and severally;

(b) Punitive damages against the individual defendants, jointly and severally;

(c) Reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and

(d) Such other and further relief as this Court deems just and proper.

DATED: November 30, 2015
New York, New York



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TO: All Defendants
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